



February 11, 2005

SENATE BILL No. 529

DIGEST OF SB 529 (Updated February 9, 2005 12:32 pm - DI 104)

Citations Affected: IC 12-8; IC 12-13; IC 12-17; IC 12-18; IC 12-24; IC 31-9; IC 31-16; IC 31-33; IC 31-34; IC 31-37; IC 31-39; noncode.

Synopsis: Department of child services. Extends the expiration of the office of the secretary of family and social services and its divisions to January 1, 2008. Establishes the department of child services and removes: (1) child protection service duties; (2) child support services under Title IV-D; (3) adoption services; (4) foster care services; and (5) independent living services; to the department. Adds references to the state central collection unit concerning income withholding by employers for child support payments and allows the department of child services to assess a civil penalty of \$25 per obligor per pay period against certain income payors that do not make the payment through electronic funds transfer. Renames the division of family and children to the division of family resources. Repeals: (1) statutes that require county offices of family and children to establish a local child protection service; and (2) the designation of the child support bureau as the state's designated Title IV-D agency.

Effective: Upon passage; July 1, 2005.

Lawson C

January 20, 2005, read first time and referred to Committee on Health and Provider Services.

February 10, 2005, amended, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

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SB 529—LS 7896/DI 104+



February 11, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 529

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-8-1-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter
3 expires January 1, ~~2006~~. **2008.**
- 4 SECTION 2. IC 12-8-2-12 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. This chapter
6 expires January 1, ~~2006~~. **2008.**
- 7 SECTION 3. IC 12-8-6-10 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter
9 expires January 1, ~~2006~~. **2008.**
- 10 SECTION 4. IC 12-8-8-8 IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2005]: Sec. 8. This chapter expires January 1,
12 ~~2006~~. **2008.**
- 13 SECTION 5. IC 12-13-14.5-1 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
15 chapter, "child protection caseworker" means a person who:
16 (1) works for a ~~county office~~; **the department of child services**;
17 and

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(2) investigates reports of abuse and neglect.

SECTION 6. IC 12-13-14.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. One (1) time every six (6) months, the division shall submit a report to the budget committee and to the general assembly that provides data and statistical information regarding caseloads for each county for ~~child protection caseworkers~~, child welfare caseworkers and other caseworkers under the jurisdiction of the division of family and children ~~department of family and social services~~ during the preceding six (6) months. A report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.

SECTION 7. IC 12-13-14.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The report required under section 3 of this chapter must do the following:

(1) Describe the methodology used to compute caseloads for each ~~child protection caseworker~~ and child welfare caseworker.

(2) Indicate whether the statewide average caseloads for ~~child protection caseworkers~~ and child welfare caseworkers exceed the caseload standards that apply to a county containing a consolidated city.

(3) If the indication under subdivision (2) is affirmative, include a written plan for making the statewide caseload standard equivalent to the standards that apply to a county containing a consolidated city.

(4) Identify, describe, and, if appropriate, recommend best management practices and resources required to achieve effective and efficient delivery of ~~child protection~~ and child welfare services.

SECTION 8. IC 12-17-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The division may not approve a grant from the fund to an applicant unless the applicant agrees to adopt the following program enrollment priorities:

(1) First priority must be given to children who are referred to a program by the ~~local~~ **department of child protection service agency services** under IC 31-33 (or IC 31-6-11 before its repeal). Within this priority, children in families with the lowest gross monthly income compared to other children in this priority level must be enrolled first.

(2) Second priority must be given to children in kindergarten and grades 1 through 3 and the children's siblings if the children's families need school age child care services because of:

(A) enrollment of a child's legal custodian in vocational

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training under a degree program;

(B) employment of a child's legal custodian; or

(C) physical or mental incapacitation of a child's legal custodian.

(3) Third priority must be given to children in grades 4 through 9 if the children's families need school age child care services because of:

(A) enrollment of a child's legal custodian in vocational training under a degree program;

(B) employment of a child's legal custodian; or

(C) physical or mental incapacitation of a child's legal custodian.

SECTION 9. IC 12-18-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A local domestic violence fatality review team consists of the following members:

(1) A survivor of domestic violence.

(2) A domestic violence direct service provider.

(3) A representative of law enforcement from the area served by the local domestic violence fatality review team.

(4) A prosecuting attorney or the prosecuting attorney's designee from the area served by the local domestic violence fatality review team.

(5) An expert in the field of forensic pathology, a coroner, or a deputy coroner.

(6) A medical practitioner with expertise in domestic violence.

(7) A judge who hears civil or criminal cases.

(8) An employee of ~~a~~ **the department of child protective services.** ~~agency.~~

(b) If a local domestic violence fatality review team is established in one (1) county, the legislative body that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

(1) adopt an ordinance for the appointment and reappointment of

members of the local domestic violence fatality review team; and

(2) appoint members to the local domestic violence fatality review team under the ordinance adopted.

(c) If a local domestic violence fatality review team is established in a region, the county legislative bodies that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

(1) each adopt substantially similar ordinances for the

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1 appointment and reappointment of members of the local domestic
2 violence fatality review team; and

3 (2) appoint members to the local domestic violence fatality review
4 team under the ordinances adopted.

5 (d) A local domestic violence fatality review team may not have
6 more than fifteen (15) members.

7 SECTION 10. IC 12-24-17-5 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A superintendent
9 who receives a written report of an alleged violation of section 3 of this
10 chapter shall begin an investigation within twenty-four (24) hours after
11 receipt of the written report.

12 (b) In accordance with IC 31-33, the superintendent shall report the
13 alleged violation of section 3 of this chapter to either of the following:

14 (1) The ~~local department of child protection service established~~
15 ~~within the county office services~~ if the alleged victim is less than
16 eighteen (18) years of age.

17 (2) The adult protective services unit designated under IC 12-10-3
18 if the alleged victim is at least eighteen (18) years of age.

19 SECTION 11. IC 31-9-2-38.5 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2005]: **Sec. 38.5. "Department", for purposes**
22 **of IC 31-33, has the meaning set forth in IC 31-33-1.5-1.**

23 SECTION 12. IC 31-9-2-40 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 40. "Director", for
25 purposes of IC 31-33, IC 31-34, and IC 31-37, refers to the director of
26 the ~~division of family and children~~ **department of child services**.

27 SECTION 13. IC 31-16-15-1 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) In a
29 proceeding under IC 31-14 or IC 31-16-2 through IC 31-16-12 to
30 establish, modify, or enforce a child support order, the court shall:

31 (1) enter an order for immediate income withholding; and

32 (2) modify any previously issued income withholding order that
33 has not been activated under this chapter to provide for immediate
34 income withholding.

35 (b) The court shall issue the income withholding order to the income
36 payor not later than fifteen (15) calendar days after the court's
37 determination.

38 (c) The income withholding order must order income payors to send
39 to the ~~clerk of the court~~ **state central collection unit** or other person
40 specified in the support order under:

41 (1) IC 31-14-11-11;

42 (2) IC 31-16-4; or

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(3) IC 31-16-9;
the amount of income established by the court for child support at the time the order for child support is established, enforced, or modified.

(d) However, the court shall issue an income withholding order that will not become activated except upon the occurrence of the two (2) conditions described in section 2 of this chapter if:

(1) the parties submit a written agreement providing for an alternative child support arrangement; or

(2) the court determines that good cause exists not to require immediate income withholding.

(e) A finding of good cause under subsection (d)(2) must:

(1) be written; and

(2) include:

(A) all reasons why immediate income withholding is not in the best interests of the child; and

(B) if the case involves a modification of support, a statement that past support has been timely paid.

(f) The income withholding order must contain a statement that if the withholding order is activated, income payors will be ordered to send to the ~~clerk of the court~~ **state central collection unit** or other person specified in the support order under:

(1) IC 31-14-11-11;

(2) IC 31-16-4; or

(3) IC 31-16-9;

the amount of income established by the court for child support.

SECTION 14. IC 31-16-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to the implementation of income withholding under an order issued under sections 1 and 3 of this chapter.

(b) If the Title IV-D agency or the court becomes aware that the obligor has an income payor to whom a notice has not been sent under subsection (c) or an income payor to whom notice of delinquent support has not been sent under subsection (c):

(1) the Title IV-D agency in a case arising under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669); or

(2) the court;

shall not later than fifteen (15) calendar days after becoming aware of an income payor send a written notice to the income payor that the withholding is binding on the income payor.

(c) The notice to an income payor under this section must contain a statement of the following:

(1) That the income payor is required to withhold a certain

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amount of income from the obligor.

(2) That the total amount to be withheld under court order by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court state~~ **central collection unit** or other person specified in the notice; up to the maximum amount permitted under 15 U.S.C. 1673(b).

(3) That the income payor shall:

(A) forward the withheld income described in subdivision (2)(A) and (2)(B) to the ~~clerk of the court state~~ **central collection unit** or other person named in the notice at the same time that the obligor is paid; and

(B) include a statement identifying:

(i) each cause number;

(ii) the name of each obligor; and

(iii) the name of each payee with the withheld income forwarded by the income payor.

(4) That withholding is binding upon the income payor until further notice from a Title IV-D agency.

(5) That the obligor may recover from the income payor in a civil action an amount not less than one hundred dollars (\$100) if the income payor:

(A) discharges the obligor from employment;

(B) refuses the obligor employment; or

(C) disciplines the obligor;

solely because the income payor is required to forward income under this chapter.

(6) That the income payor is liable for any amount that the income payor fails to forward under this chapter.

(7) That withholding under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes.

(8) That, if the income payor is required to withhold income from more than one (1) obligor, the income payor may:

(A) combine in a single payment the withheld amounts for all obligors who have been ordered to pay the ~~same clerk state~~ **central collection unit** or other governmental agency; and

(B) separately identify the part of the single payment that is

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- 1 attributable to each individual obligor.
- 2 (9) That if:
- 3 (A) there is more than one (1) order for withholding against a
- 4 single obligor; and
- 5 (B) the obligor has insufficient disposable earnings to pay the
- 6 amount required by all the orders;
- 7 the income payor shall distribute the withheld earnings pro rata
- 8 among the entities entitled to receive earnings under the orders,
- 9 giving priority to a current support withholding order. The income
- 10 payor shall honor all withholdings to the extent that the total
- 11 amount withheld does not exceed the limits imposed under 15
- 12 U.S.C. 1673(b).
- 13 (10) That the income payor shall implement withholding not later
- 14 than the first pay date after fourteen (14) days following the date
- 15 the notice was received.
- 16 (11) That the income payor shall:
- 17 (A) notify:
- 18 (i) the Title IV-D agency if the Title IV-D agency gives the
- 19 notice under this section; or
- 20 (ii) the court if the court gives the notice under this section;
- 21 when the obligor ceases employment or no longer receives
- 22 income not later than ten (10) days after the employment or
- 23 income ceases; and
- 24 (B) provide:
- 25 (i) the obligor's last known address; and
- 26 (ii) the name and address of the obligor's new income payor,
- 27 if known.
- 28 SECTION 15. IC 31-16-15-7 IS AMENDED TO READ AS
- 29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Whenever an
- 30 income withholding order is to be:
- 31 (1) activated in a case arising under section 5 of this chapter; or
- 32 (2) implemented by a Title IV-D agency under section 3 of this
- 33 chapter despite the absence of a withholding order in the support
- 34 order;
- 35 the Title IV-D agency shall send a written notice to the obligor.
- 36 (b) The notice required under subsection (a) must contain a
- 37 statement of the following:
- 38 (1) Whether the obligor is delinquent in the payment of child
- 39 support.
- 40 (2) The amount of child support, if any, that the obligor is in
- 41 arrears.
- 42 (3) That a certain amount of income is to be:

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(A) withheld under court order or action by the Title IV-D agency from the obligor's income; and

(B) forwarded to the ~~clerk of the court~~ **state central collection unit or other person named in the notice.**

(4) That the total amount to be withheld under court order or action by the Title IV-D agency by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the clerk of the court or other person specified in the notice to the income payor under this chapter;

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(5) That the provision for withholding applies to the receipt of any current or subsequent income.

(6) That the only basis for contesting activation of income withholding is a mistake of fact.

(7) That an obligor may contest the Title IV-D agency's determination to activate income withholding by making written application to the Title IV-D agency not later than twenty (20) days after the date the notice is mailed.

(8) That if the obligor contests the Title IV-D agency's determination to activate the income withholding order, the Title IV-D agency shall schedule an administrative hearing.

(9) That if the obligor does not contest the Title IV-D agency's determination to activate the income withholding order, the Title IV-D agency will activate income withholding.

(10) That income withholding will continue until a court or the Title IV-D agency terminates activation of income withholding.

SECTION 16. IC 31-16-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If a petition

to activate an income withholding order is filed under section 6(2) or 6(3) of this chapter, the court shall set a date for a hearing on the petition that is not later than twenty (20) days after the date the petition is filed. The court shall send a summons and a written notice to the obligor. The notice must contain a statement of the following:

(1) Whether the obligor is delinquent in the payment of child support.

(2) The amount of child support, if any, that the obligor is in

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arrears.

(3) That a certain amount for the payment of current and past due child support is to be withheld each month from the obligor's income and forwarded to the ~~clerk of the court~~; **state central collection unit or other person named in the notice.**

(4) That the total amount to be withheld each month by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court~~; **state**

central collection unit or other person named in the notice; up to the maximum amount permitted under 15 U.S.C. 1673(b).

(5) That the provision for withholding applies to receipt of any current or subsequent income.

(6) That any of the following constitutes a basis for contesting the withholding:

(A) A mistake of fact.

(B) The parties have submitted a written agreement providing for an alternative child support arrangement.

(C) A court determines that good cause exists not to require immediate income withholding.

(7) That income withholding will continue until the activation of the income withholding order is terminated by the court.

(8) That if the obligor does not appear at the hearing, the court will activate the income withholding order.

(b) If:

(1) the obligor does not appear at the hearing on the petition filed under section 6(2) or 6(3) of this chapter; or

(2) the court grants the petition;

the court shall activate the income withholding order by mailing a written notice to the income payor as provided in section 10 of this chapter.

SECTION 17. IC 31-16-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) To activate or implement an income withholding order, in addition to the notice requirements imposed by sections 7 and 8 of this chapter:

(1) the Title IV-D agency in a case arising under section 3 or 5 of this chapter; or

(2) the court in a case arising under section 6 of this chapter;

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shall mail a written notice to each income payor not later than fifteen (15) calendar days after the issuance of the income withholding order.

(b) The notice to each income payor must contain a statement of the following:

(1) That the income payor is required to withhold a certain amount of income from the obligor.

(2) That the total amount to be withheld each month by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court~~; **state central collection unit or other person named in the notice**;

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(3) That the income payor shall:

(A) forward the withheld income described in subdivision

(2)(A) and (2)(B) to the ~~clerk of the court~~ or the state central collection unit **or other person** named in the notice at the same time that the obligor is paid; and

(B) include a statement identifying:

(i) each cause number;

(ii) the Indiana support enforcement tracking system (SETS) case number;

(iii) the name of each obligor; ~~and~~

(iv) the name of each payee with the withheld income forwarded by the income payor; **and**

(v) the obligor's Social Security number.

(4) That withholding is binding upon the income payor until further notice.

(5) That the obligor may recover from the income payor in a civil action an amount not less than one hundred dollars (\$100) if the income payor:

(A) discharges the obligor from employment;

(B) refuses the obligor employment; or

(C) disciplines the obligor;

because the income payor is required to forward income under this chapter.

(6) That the income payor is liable for any amount that the income payor fails to forward under this chapter.

(7) That withholding under this chapter has priority over any

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secured or unsecured claim on income except claims for federal, state, and local taxes.

(8) That, if the income payor is required to withhold income from more than one (1) obligor, the income payor may:

(A) combine in a single payment the withheld amounts for all obligors who have been ordered to pay the ~~same clerk state~~ **central collection unit** or other governmental agency; and

(B) separately identify the part of the single payment that is attributable to each individual obligor.

(9) That if:

(A) there is more than one (1) order for withholding against a single obligor; and

(B) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

the income payor shall distribute the withheld earnings pro rata among the entities entitled to receive earnings under the orders, giving priority to a current support withholding order, and shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

(10) That the income payor shall implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(11) That the income payor shall:

(A) notify:

(i) the Title IV-D agency in a case arising under section 5 of this chapter; or

(ii) the court in a case arising under section 1 or 6 of this chapter;

when the obligor terminates employment or ceases to receive other income not later than ten (10) days after termination; and

(B) provide:

(i) the obligor's last known address; and

(ii) the name and address of the obligor's new income payor if known.

SECTION 18. IC 31-16-15-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) An income payor that is required to withhold income under this chapter shall:

(1) forward income withheld for the payment of current and past due child support to the ~~clerk of the court~~, the state central collection unit or other person named in the notice at the same time that the obligor is paid;

(2) include a statement identifying:

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- 1 (A) each cause number;
 2 (B) the Indiana support enforcement tracking system (ISETS)
 3 case number;
 4 (C) the name of each obligor **and the obligor's Social**
 5 **Security number;** and
 6 (D) the name of each payee with the withheld income
 7 forwarded by the income payor; and
 8 (3) implement withholding not later than the first pay date after
 9 fourteen (14) days following the date the notice was received.
 10 (b) The income payor may retain, in addition to the amount required
 11 to be forwarded to the ~~clerk of court~~ **state central collection unit**
 12 under subsection (a), a fee of two dollars (\$2) from the obligor's
 13 income each time the income payor forwards income to the ~~clerk of the~~
 14 **court state central collection unit** or other person specified in the
 15 notice to an income payor under this chapter. If the income payor elects
 16 to withhold the fee, the amount to be withheld for the payment of
 17 current and past due child support must be reduced accordingly if
 18 necessary to avoid exceeding the maximum amount permitted to be
 19 withheld under 15 U.S.C. 1673(b).
 20 SECTION 19. IC 31-16-15-16 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Except as
 22 provided in subsection (b), if the income payor is required to withhold
 23 income from more than one (1) obligor under this chapter, the income
 24 payor may:
 25 (1) combine in a single payment the withheld amounts for all
 26 obligors who have been ordered to pay to the ~~same clerk state~~
 27 **central collection unit** or other governmental agency; and
 28 (2) separately identify the part of the single payment that is
 29 attributable to each individual obligor.
 30 (b) If the income payor:
 31 (1) is required to withhold income from more than one (1) obligor
 32 under this chapter; and
 33 (2) employs more than fifty (50) employees;
 34 the income payor shall make payments to the state central collection
 35 unit through electronic funds transfer.
 36 (c) **The department of child services shall assess a civil penalty**
 37 **of twenty-five dollars (\$25) per obligor per pay period against an**
 38 **income payor that:**
 39 (1) **is required to make a payment through electronic funds**
 40 **transfer under subsection (b); and**
 41 (2) **does not make the payment through electronic funds**
 42 **transfer.**

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The department shall deposit the penalties into the state general fund.

SECTION 20. IC 31-33-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The purpose of this article is to:

- (1) encourage effective reporting of suspected or known incidents of child abuse or neglect;
- (2) provide ~~in each county an~~ effective child ~~protection service~~ **services** to quickly investigate reports of child abuse or neglect;
- (3) provide protection for an abused or a neglected child from further abuse or neglect;
- (4) provide rehabilitative services for an abused or a neglected child and the child's parent, guardian, or custodian; and
- (5) establish a centralized statewide child abuse registry and an automated child protection system.

SECTION 21. IC 31-33-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 1.5. Department of Child Services

Sec. 1. As used in this article, "department" refers to the department of child services established by section 2 of this chapter.

Sec. 2. (a) The department of child services is established.

(b) The governor shall appoint a director who is responsible for administering the department. The director:

- (1) serves at the governor's pleasure; and
- (2) is entitled to compensation set by the budget agency.

Sec. 3. The director may employ necessary personnel to carry out the department's responsibilities subject to:

- (1) the budget agency's approval under IC 4-12-1-13; and
- (2) IC 4-15-2.

Sec. 4. The director shall determine the best manner of organizing the department to provide the necessary services throughout Indiana to fulfill the purposes of this article. The director may establish regional offices that supervise services provided in one (1) or more counties.

Sec. 5. One (1) time every six (6) months, the department shall submit a report to the budget committee and to the general assembly that provides data and statistical information regarding caseloads of child protection caseworkers. The report made to the general assembly must be in an electronic format under IC 5-14-6.

Sec. 6. The report required under section 5 of this chapter must

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do the following:

(1) Describe the methodology used to compute caseloads for each child protection caseworker.

(2) Indicate whether the statewide average caseloads for child protection caseworkers exceed the caseload standards that apply to a county containing a consolidated city.

(3) If the indication under subdivision (2) is affirmative, include a written plan for making the statewide caseload standard equivalent to the standards that apply to a county containing a consolidated city.

(4) Identify, describe, and, if appropriate, recommend best management practices and resources required to achieve effective and efficient delivery of child protection services.

Sec. 7. The department is responsible for the following:

(1) Providing child protection services.

(2) Administering the state's plan for the administration of Title IV-D of the federal Social Security Act (42 U.S.C. 651 et seq.).

(3) Administering foster care services.

(4) Administering independent living services (as described in 42 U.S.C. 670 et seq.).

(5) Administering adoption services.

Sec. 8. (a) The department is the single state agency in Indiana charged with the administration of Title IV-D of the federal Social Security Act.

(b) The state's plan for the administration of Title IV-D must comply with all provisions of state law and with the federal statutes and regulations governing the program.

Sec. 9. (a) The department shall operate the state parent locator service. The department shall make all necessary requests and responses to the federal parent locator service and to the parent locator services of the other states.

(b) To carry out the department's responsibilities under this chapter, the department, through the parent locator service, may request information and assistance from a state, county, city, or town agency. Officers and employees of a state, county, city, or town agency shall cooperate with the department in determining the location of a parent who:

(1) owes child support; or

(2) has abandoned or deserted a child;

by providing the pertinent information relative to the location, income, and property of the parent, notwithstanding a statute

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making the information confidential.

(c) Notwithstanding a statute making the information confidential, each person doing business in Indiana shall provide the department or an agent of the department with the following information, if available, upon receipt of the certification described in subsection (d):

- (1) Full name of the parent.
- (2) Social Security number of the parent.
- (3) Date of birth of the parent.
- (4) Address of the parent's residence.
- (5) Amount of wages earned by the parent.
- (6) Number of dependents claimed by the parent on state and federal tax withholding forms.
- (7) Name and address of the parent's employer.
- (8) Name and address of any financial institution maintaining an account for the parent.
- (9) Address of any real property owned by the parent.
- (10) Name and address of the parent's health insurance carrier and health coverage policy number.

(d) The parent locator service shall certify that the information requested in subsection (c) is for the purpose of locating a parent who owes child support or who has abandoned a child and that the information obtained is to be treated as confidential by the department and any other state to which the information is released.

(e) A business in Indiana and each unit of state and local government shall comply with an administrative subpoena issued by a Title IV-D agency in another jurisdiction. The information requested may not be provided unless the Title IV-D agency of the other jurisdiction certifies that the information will be treated as confidential. The business or unit of government shall provide the Title IV-D agency of the other jurisdiction with the information listed in subsection (d), if available, if requested in the subpoena, upon certification by the Title IV-D agency of the other jurisdiction that the information is for the purpose of locating a parent who owes child support or who has abandoned or deserted a child.

(f) A person may not knowingly refuse to give the department, the department's agents, or the Title IV-D agency of another jurisdiction the following:

- (1) The name of a parent of a child for whom the state is providing public assistance.
- (2) Information that may assist the parent locator service or

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other jurisdiction in locating the parent of a child.

(g) Information obtained under this section may not be used in a criminal prosecution against the informant.

(h) A person may not knowingly give the department or the Title IV-D agency of another jurisdiction the incorrect name of a parent of a child or knowingly give the parent locator service incorrect information on the parent's whereabouts for the purpose of concealing the identity of the real parent of the child or the location of the parent.

Sec. 10. The department may adopt rules under IC 4-22-2 necessary to carry out the department's duties under this chapter.

SECTION 22. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The ~~local child protection service~~ **department**:

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child ~~protective~~ **protection** services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child ~~protective~~ **protection** services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article I, Section 11 of the Constitution of the State of Indiana.

SECTION 23. IC 31-33-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except in cases involving a child who may be a victim of institutional abuse or cases in which police investigation also appears appropriate, the ~~local child protection service~~ **department** is the primary public agency responsible for:

(1) receiving;

(2) investigating or arranging for investigation; and

(3) coordinating;

the investigation of all reports of a child who may be a victim of known

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or suspected child abuse or neglect.

(b) In accordance with ~~the~~ a local plan for ~~the~~ child protection services, the ~~local child protection service~~ **department** shall, by juvenile court order:

(1) provide protective services to prevent cases where a child may be a victim of further child abuse or neglect; and

(2) provide for or arrange for and coordinate and monitor the provision of the services necessary to ensure the safety of children.

(c) Reasonable efforts must be made to provide family services designed to prevent a child's removal from the child's parent, guardian, or custodian.

SECTION 24. IC 31-33-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The ~~local child protection service~~ **department** shall give notice of the existence and location of photographs, x-rays, and physical medical examination reports to:

(1) the **appropriate** prosecuting attorney; and

(2) the appropriate law enforcement agency, if the law enforcement agency has not already received the items described in this section under IC 31-33-10-3.

SECTION 25. IC 31-33-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The ~~local child protection service~~ **department** shall cooperate with and shall seek and receive the cooperation of appropriate public and private agencies, including the following:

(1) Law enforcement agencies.

(2) The courts.

(3) Organizations, groups, and programs providing or concerned with services related to the prevention, identification, or treatment of a child who may be a victim of child abuse or neglect.

(b) The ~~local child protection service~~ **department** shall also cooperate with public and private agencies, organizations, and groups that provide family services designed to prevent a child's removal from the child's home.

(c) Cooperation and involvement under this section may include the following:

(1) Consultation services.

(2) Planning.

(3) Case management.

(4) Public education and information services.

(5) Utilization of each other's facilities, staff, and other training.

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SECTION 26. IC 31-33-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Notwithstanding any other law, the ~~child protection service~~ **department** may purchase and use the services of any public or private agency if adequate provision is made for continuity of care and accountability. ~~between the local protection service and the agency.~~

(b) If the ~~local child protection service~~ **department** purchases services under this article, the state shall reimburse the expenses, to the extent allowed by state and federal statutes, rules, and regulations, to the locality or agency in the same manner and to the same extent as if the services were provided directly by the ~~local child protection service.~~ **department.**

SECTION 27. IC 31-33-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The community child protection team is a communitywide, multidisciplinary child protection team. The team must include the following eleven (11) members:

- (1) The director ~~of the local child protection service~~ or the director's designee.
- (2) Two (2) designees of the juvenile court judge.
- (3) The county prosecuting attorney or the prosecuting attorney's designee.
- (4) The county sheriff or the sheriff's designee.
- (5) Either:
 - (A) the president of the county executive in a county not containing a consolidated city or the president's designee; or
 - (B) the executive of a consolidated city in a county containing a consolidated city or the executive's designee.
- (6) A director of a court appointed special advocate or guardian ad litem program or the director's designee in the county in which the team is to be formed.
- (7) Either:
 - (A) a public school superintendent or the superintendent's designee; or
 - (B) a director of a local special education cooperative or the director's designee.
- (8) Two (2) persons, each of whom is a physician or nurse, with experience in pediatrics or family practice.
- (9) One (1) citizen of the community.

(b) The director ~~of the county office of family and children~~ shall appoint ~~subject to the approval of the director of the division of family and children,~~ the members of the team under subsection (a)(7), (a)(8),

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1 and (a)(9).

2 SECTION 28. IC 31-33-3-4 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The community
4 child protection team shall meet:

5 (1) at least one (1) time each month; or

6 (2) at the times that the team's services are needed by the ~~child~~
7 ~~protection service~~ **department**.

8 (b) Meetings of the team shall be called by the majority vote of the
9 members of the team.

10 (c) The team coordinator or at least two (2) other members of the
11 team may determine the agenda.

12 (d) Notwithstanding IC 5-14-1.5, meetings of the team are open only
13 to persons authorized to receive information under this article.

14 SECTION 29. IC 31-33-3-5 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The community child
16 protection team:

17 (1) shall provide diagnostic and prognostic services for the ~~local~~
18 ~~child protection service~~ **department** or the juvenile court; and

19 (2) may recommend to the ~~local child protection service~~
20 ~~department~~ that a petition be filed in the juvenile court on behalf
21 of the subject child if the team believes this would best serve the
22 interests of the child.

23 SECTION 30. IC 31-33-3-6 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The community child
25 protection team may receive and review:

26 (1) any case that the ~~local child protection service~~ **department**
27 has been involved in within the county where the team presides;
28 and

29 (2) complaints regarding child abuse and neglect cases that are
30 brought to the team by a person or an agency.

31 SECTION 31. IC 31-33-4-1 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Before February 2
33 of each odd-numbered year, ~~each county office of family and children;~~
34 **the department**, after a public hearing, shall:

35 (1) prepare a local plan for **an area determined by the director**
36 **for the provision of child protection services in that area;** and

37 (2) submit the plan to:

38 (A) the director after consultation with local law enforcement
39 agencies;

40 (B) ~~a~~ **an appropriate** juvenile court;

41 (C) the community child protection team **for the area** as
42 provided for in IC 31-33-3-1; and

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(D) appropriate public or voluntary agencies, including organizations for the prevention of child abuse or neglect.

SECTION 32. IC 31-33-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The local plan must describe the ~~county office of family and children's~~ **department's** implementation of this article **for the area**, including the following:

- (1) Organization.
- (2) Staffing.
- (3) Mode of operations.
- (4) Financing of the child protection services.
- (5) The provisions made for the purchase of service and interagency relations.

SECTION 33. IC 31-33-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A person who has a duty under this chapter to report that a child may be a victim of child abuse or neglect shall immediately make an oral report to:

- (1) the ~~local child protection service~~; **department**; or
- (2) the local law enforcement agency.

SECTION 34. IC 31-33-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The ~~local child protection service~~ **department** shall arrange for receipt, on a twenty-four (24) hour, seven (7) day per week basis, of all reports under this article of suspected child abuse or neglect.

SECTION 35. IC 31-33-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. To carry out section 1 of this chapter, a ~~local child protection service~~ **the department** must use a phone access system for receiving calls that is standardized among all counties. The ~~division of family and children~~ **department** shall adopt rules under IC 4-22-2 for the administration of this section.

SECTION 36. IC 31-33-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Each local child protection service~~ **The department** shall cause to be inserted in each local telephone directory in the county a listing of the child abuse hotline's telephone number under the name "child abuse hotline". The child abuse hotline number under this section must be included with the other emergency numbers listed in the directory.

SECTION 37. IC 31-33-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The ~~local child protection service~~ **department** shall make a written report of a child who may be a victim of child abuse or neglect not later than forty-eight (48) hours after receipt of the oral report required of individuals by IC 31-33-5-4.

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(b) Written reports under this section must be made on forms supplied by the administrator. The written reports must include, if known, the following information:

(1) The names and addresses of the following:

(A) The child.

(B) The child's parents, guardian, custodian, or other person responsible for the child's care.

(2) The child's age and sex.

(3) The nature and apparent extent of the child's injuries, abuse, or neglect, including any evidence of prior:

(A) injuries of the child; or

(B) abuse or neglect of the child or the child's siblings.

(4) The name of the person allegedly responsible for causing the injury, abuse, or neglect.

(5) The source of the report.

(6) The person making the report and where the person can be reached.

(7) The actions taken by the reporting source, including the following:

(A) Taking of photographs and x-rays.

(B) Removal or keeping of the child.

(C) Notifying the coroner.

(8) The written documentation required by IC 31-34-2-3 if a child was taken into custody without a court order.

(9) Any other information that:

(A) the director requires by rule; or

(B) the person making the report believes might be helpful.

SECTION 38. IC 31-33-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A copy of the written report of the ~~local child protection service~~ **department** shall immediately be made available to:

(1) the appropriate law enforcement agency;

(2) the prosecuting attorney; and

(3) in a case involving death, the coroner for the coroner's consideration.

SECTION 39. IC 31-33-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. Upon receiving a written report under section 5(3) of this chapter, the coroner shall:

(1) accept a report for investigation; and

(2) report the coroner's findings to:

(A) the appropriate law enforcement agency;

(B) the prosecuting attorney;

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(C) the ~~local child protection service~~; **department**; and

(D) the hospital if the institution making the report is a hospital.

SECTION 40. IC 31-33-7-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. Child abuse or neglect information may be expunged under IC 31-39-8 if the probative value of the information is so doubtful as to outweigh its validity. Child abuse or neglect information shall be expunged if it is determined to be unsubstantiated after:

(1) an investigation **by the department** of a report of a child who may be a victim of child abuse or neglect; ~~by the child protection service~~; or

(2) a court proceeding.

SECTION 41. IC 31-33-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) When a law enforcement agency receives an initial report under IC 31-33-5-4 that a child may be a victim of child abuse or neglect, the law enforcement agency shall:

(1) immediately communicate the report to the ~~local child protection service~~, **department**, whether or not the law enforcement agency has reason to believe there exists an imminent danger to the child's health or welfare; and

(2) conduct an immediate, onsite investigation of the report along with the ~~local child protection service~~ **department** whenever the law enforcement agency has reason to believe that an offense has been committed.

(b) In all cases, the law enforcement agency shall forward any information, including copies of investigation reports, on incidents of cases in which a child may be a victim of child abuse or neglect, whether or not obtained under this article, to:

(1) the ~~local child protection agency~~; **department**; and

(2) the juvenile court under IC 31-34-7.

SECTION 42. IC 31-33-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section applies if the ~~local child protection service~~ **department** receives a report of suspected child abuse or neglect from:

(1) a hospital;

(2) a community mental health center;

(3) a managed care provider (as defined in IC 12-7-2-127(b));

(4) a referring physician;

(5) a dentist;

(6) a licensed psychologist; or

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- 1 (7) a school.
- 2 (b) Not later than thirty (30) days after the date a ~~local child~~
 3 ~~protection service~~ **the department** receives a report of suspected child
 4 abuse or neglect from a person described in subsection (a), the ~~child~~
 5 ~~protection service~~ **department** shall send a report to:
- 6 (1) the administrator of the hospital;
 7 (2) the community mental health center;
 8 (3) the managed care provider;
 9 (4) the referring physician;
 10 (5) the dentist; or
 11 (6) the principal of the school.
- 12 The report must contain the items listed in subsection (e) that are
 13 known at the time the report is sent.
- 14 (c) Not later than ninety (90) days after the date a ~~local child~~
 15 ~~protection service~~ **the department** receives a report of suspected child
 16 abuse or neglect, the ~~local child protection service~~ **department** shall
 17 send a report that contains any additional items listed in subsection (e)
 18 that were not covered in the prior report if available.
- 19 (d) The administrator, director, referring physician, dentist, licensed
 20 psychologist, or principal may appoint a designee to receive the report.
- 21 (e) A report made by the ~~local child protection service~~ **department**
 22 under this section must contain the following information:
- 23 (1) The name of the alleged victim of child abuse or neglect.
 24 (2) The name of the alleged perpetrator and the alleged
 25 perpetrator's relationship to the alleged victim.
 26 (3) Whether the case is closed.
 27 (4) Whether information concerning the case has been expunged.
 28 (5) The name of any agency to which the alleged victim has been
 29 referred.
 30 (6) Whether the ~~local child protection service~~ **department** has
 31 made an investigation of the case and has not taken any further
 32 action.
 33 (7) Whether a substantiated case of child abuse or neglect was
 34 informally adjusted.
 35 (8) Whether the alleged victim was referred to the juvenile court
 36 as a child in need of services.
 37 (9) Whether the alleged victim was returned to the victim's home.
 38 (10) Whether the alleged victim was placed in residential care
 39 outside the victim's home.
 40 (11) Whether a wardship was established for the alleged victim.
 41 (12) Whether criminal action is pending or has been brought
 42 against the alleged perpetrator.

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(13) A brief description of any casework plan that has been developed by the ~~child protection service~~ **department**.

(14) The caseworker's name and telephone number.

(15) The date the report is prepared.

(16) Other information that the ~~division of family and children~~ **department** may prescribe.

(f) A report made under this section:

(1) is confidential; and

(2) may be made available only to:

(A) the agencies named in this section; and

(B) the persons and agencies listed in IC 31-33-18-2.

SECTION 43. IC 31-33-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The ~~local child protection service~~ **department** shall initiate an immediate and appropriately thorough child protection investigation of every report of known or suspected child abuse or neglect the ~~local child protection service~~ **department** receives, whether in accordance with this article or otherwise.

(b) Subject to subsections (d) and (e), if the report alleges a child may be a victim of child abuse, the investigation shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report.

(c) Subject to subsections (d) and (e), if reports of child neglect are received, the investigation shall be initiated within a reasonably prompt time, but not later than five (5) days, with the primary consideration being the well-being of the child who is the subject of the report.

(d) If the immediate safety or well-being of a child appears to be endangered or the facts otherwise warrant, the investigation shall be initiated regardless of the time of day.

(e) If the ~~child protection service~~ **department** has reason to believe that the child is in imminent danger of serious bodily harm, the ~~child protection service~~ **department** shall initiate within one (1) hour an immediate, onsite investigation.

SECTION 44. IC 31-33-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Upon the receipt of each report under this chapter of known or suspected child abuse, the ~~local child protection service~~ **department** shall contact the law enforcement agency in the appropriate jurisdiction.

(b) The law enforcement agency, with the ~~local child protection service~~ **department**, shall conduct an immediate onsite investigation of the report if the law enforcement agency has reason to believe that an offense has been committed. The law enforcement agency shall

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investigate the alleged child abuse or neglect under this chapter in the same manner that the law enforcement agency conducts any other criminal investigation.

SECTION 45. IC 31-33-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except as provided in subsection (b), the ~~local child protection service~~ **department** shall:

(1) cause color photographs to be taken of the areas of trauma visible on a child who is subject to a report; and

(2) if medically indicated, cause a radiological examination of the child to be performed.

(b) If the law enforcement agency participates in the investigation, the law enforcement agency shall cause the color photographs to be taken as provided by this section.

(c) The ~~division of family and children~~ **department** shall reimburse the expenses of the photographs and x-rays.

SECTION 46. IC 31-33-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~local child protection service~~ **department** shall immediately forward a copy of all reports made under this article to the appropriate prosecuting attorney if the prosecuting attorney has made a prior request to the service in writing for the copies.

SECTION 47. IC 31-33-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The ~~local child protection service~~ **department** shall promptly make a thorough investigation upon either the oral or written report. The primary purpose of the investigation is the protection of the child.

SECTION 48. IC 31-33-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The ~~local child protection service's~~ **department's** investigation, to the extent that is reasonably possible, must include the following:

(1) The nature, extent, and cause of the known or suspected child abuse or neglect.

(2) The identity of the person allegedly responsible for the child abuse or neglect.

(3) The names and conditions of other children in the home.

(4) An evaluation of the parent, guardian, custodian or person responsible for the care of the child.

(5) The home environment and the relationship of the child to the parent, guardian, or custodian or other persons responsible for the child's care.

(6) All other data considered pertinent.

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(b) The investigation may include the following:

- (1) A visit to the child's home.
- (2) An interview with the subject child.
- (3) A physical, psychological, or psychiatric examination of any child in the home.

(c) If:

- (1) admission to the home, the school, or any other place that the child may be; or
- (2) permission of the parent, guardian, custodian, or other persons responsible for the child for the physical, psychological, or psychiatric examination;

under subsection (b) cannot be obtained, the juvenile court, upon good cause shown, shall follow the procedures under IC 31-32-12.

SECTION 49. IC 31-33-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) If, before the investigation is complete, the opinion of the law enforcement agency or the ~~local child protection service~~ **department** is that immediate removal is necessary to protect the child from further abuse or neglect, the juvenile court may issue an order under IC 31-32-13.

(b) The ~~child protection service~~ **department** shall make a complete written report of the investigation.

(c) If a law enforcement agency participates in the investigation, the law enforcement agency shall also make a complete written report of the investigation.

SECTION 50. IC 31-33-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The ~~local child protection service's~~ **department's** report under section 8 of this chapter shall be made available to:

- (1) the appropriate court;
- (2) the prosecuting attorney; or
- (3) the appropriate law enforcement agency;

upon request.

(b) If child abuse or neglect is substantiated after an investigation is conducted under section 7 of this chapter, the ~~local child protection service~~ **department** shall forward its report to the office of the prosecuting attorney having jurisdiction in the county in which the alleged child abuse or neglect occurred.

(c) If the investigation substantiates a finding of child abuse or neglect as determined by the ~~local child protection service,~~ **department**, a report shall be sent to the coordinator of the community child protection team under IC 31-33-3.

SECTION 51. IC 31-33-8-11 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. In all cases, the law
 2 enforcement agency shall release information on an incident in which
 3 a child may be a victim of alleged child abuse or neglect, whether
 4 obtained under this article or not, to the ~~local child protection service~~
 5 **department.**

6 SECTION 52. IC 31-33-8-12 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Upon
 8 completion of an investigation, the ~~local child protection service~~
 9 **department** shall classify reports as substantiated, indicated, or
 10 unsubstantiated.

11 (b) Except as provided in subsection (c), ~~a local child protection~~
 12 ~~service~~ **the department** shall expunge investigation records one (1)
 13 year after a report has been classified as indicated under subsection (a).

14 (c) If ~~a local child protection service~~ **the department** has:

15 (1) classified a report under subsection (a) as indicated; and

16 (2) not expunged the report under subsection (b);

17 and the subject of the report is the subject of a subsequent report, the
 18 one (1) year period in subsection (b) is tolled for one (1) year after the
 19 date of the subsequent report.

20 SECTION 53. IC 31-33-8-13 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. Whenever:

22 (1) an arrest relating to child abuse or neglect is made, the law
 23 enforcement agency that makes the arrest;

24 (2) criminal charges relating to child abuse or neglect are filed,
 25 the court in which the charges are filed;

26 (3) a child in need of services determination is made, the ~~local~~
 27 ~~child protection service that files the petition upon which the~~
 28 ~~determination is based;~~ **department;**

29 (4) a court approves a program of informal adjustment under
 30 IC 31-34-8 arising out of a child abuse or neglect report, the
 31 ~~appropriate child protection service;~~ **department;** or

32 (5) a person who is accused of child abuse or neglect:

33 (A) enters into a services referral agreement; and

34 (B) fails to substantially comply with the terms of the services
 35 referral agreement;

36 under IC 31-33-13, the ~~local child protection service that obtains~~
 37 ~~the agreement from the person;~~ **department;**

38 shall transmit to the registry, not more than five (5) working days after
 39 the circumstances described by subdivisions (1) through (5) occur, the
 40 relevant child abuse or neglect report.

41 SECTION 54. IC 31-33-9-1 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Through a written

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1 protocol or agreement, the ~~division of family and children~~ **department**
 2 shall designate the public or private agencies primarily responsible for
 3 investigating reports involving a child who:

- 4 (1) may be a victim of child abuse or neglect; and
 5 (2) is under the care of a public or private institution.

6 (b) The designated agency must be different from and separately
 7 administered from the agency involved in the alleged act or omission.
 8 Subject to this limitation, the agency:

- 9 (1) may be:
 10 (A) the ~~division of family and children~~ **department**; or
 11 (B) the ~~local child protection service~~; or
 12 (C) (B) a law enforcement agency; and
 13 (2) may not be the office of the prosecuting attorney.

14 SECTION 55. IC 31-33-9-2 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The protocol or
 16 agreement must describe the specific terms or conditions of the
 17 designation, including the following:

- 18 (1) The manner in which reports of a child who may be a victim
 19 of child abuse or neglect and who is under the care of a public or
 20 private institution will be received.
 21 (2) The manner in which the reports will be investigated.
 22 (3) The remedial action that will be taken.
 23 (4) The manner in which the ~~division of family and children~~
 24 **department** will be kept fully informed on the progress, findings,
 25 and disposition of the investigation.

26 SECTION 56. IC 31-33-9-3 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. To fulfill the
 28 purposes of this chapter, the ~~division of family and children~~
 29 **department** may purchase the services of the public or private agency
 30 designated to investigate reports of child abuse or neglect.

31 SECTION 57. IC 31-33-10-2 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The ~~division of~~
 33 ~~family and children~~ **department** shall reimburse the reasonable cost of
 34 photographs, x-rays, or physical medical examinations made under this
 35 chapter.

36 SECTION 58. IC 31-33-10-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. All photographs
 38 taken and a summary of x-rays and other medical care shall be sent to
 39 the ~~local child protection service~~ **department** and, upon request, to a
 40 law enforcement agency that investigates the alleged child abuse or
 41 neglect, at the time the written report is sent or as soon thereafter as
 42 possible. The ~~local child protection service~~ **department** shall give

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notice of the existence of photographs, x-rays, and physical medical examination reports in accordance with IC 31-33-2-4.

SECTION 59. IC 31-33-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Whenever:

- (1) a child is subject to investigation by ~~a local child protection service~~ **the department** for reported child abuse or neglect;
- (2) the child is a patient in a hospital; and
- (3) the hospital has reported or has been informed of the report and investigation;

the hospital may not release the child to the child's parent, guardian, custodian, or to a court approved placement until the hospital receives authorization or a copy of a court order from the ~~investigating local child protection service~~ **department** indicating that the child may be released to the child's parent, guardian, custodian, or court approved placement.

(b) If the authorization that is granted under this section is verbal, the ~~investigating local child protection service~~ **department** shall send a letter to the hospital confirming that the ~~local child protection service~~ **department** has granted authorization for the child's release.

(c) The individual or third party payor responsible financially for the hospital stay of the child remains responsible for any extended stay under this section. If no party is responsible for the extended stay, the ~~division of family and children~~ **department** shall pay the expenses of the extended hospital stay.

SECTION 60. IC 31-33-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Based on the investigation and evaluation conducted under this article, the ~~local child protection service~~ **department** shall offer to the family or any child believed to be suffering from child abuse or neglect:

- (1) family services;
- (2) rehabilitative services; or
- (3) both types of services;

that appear appropriate for either the child or the family.

SECTION 61. IC 31-33-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Before offering services under section 1 of this chapter to a family, the ~~local child protection service~~ **department**:

- (1) shall explain that the ~~local child protection service~~ **department** has no legal authority to compel the family to receive the social services; and
- (2) may inform the family of the obligations and authority of the ~~local child protection service~~ **department** to petition a juvenile

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1 court for a proceeding alleging that the child may be a victim of
2 child abuse or neglect.

3 SECTION 62. IC 31-33-12-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The ~~local child~~
5 ~~protection service~~ **department** shall coordinate, provide or arrange for,
6 and monitor, as authorized by this article and IC 12, family or
7 rehabilitative services, or both types of services, for a child and the
8 child's family on a voluntary basis or under an order of the court,
9 subject to IC 31-34-11 and IC 31-34-18.

10 SECTION 63. IC 31-33-13-1 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies
12 if:

- 13 (1) a child abuse or neglect report is classified as substantiated;
- 14 (2) the ~~local child protection service~~ **department** does not seek
- 15 court involvement under IC 31-34; and
- 16 (3) the ~~local child protection service~~ **department** recommends
- 17 voluntary participation in family or rehabilitative services for not
- 18 more than six (6) months.

19 SECTION 64. IC 31-33-13-2 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. A person who is
21 accused of child abuse or neglect may enter into a voluntary services
22 referral agreement with the ~~local child protection service~~ **department**
23 under this chapter. Under the terms of the agreement, the person shall
24 successfully participate in and complete any family or rehabilitative
25 services recommended by the ~~local child protection service~~
26 **department**.

27 SECTION 65. IC 31-33-13-3 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. If a person who
29 enters into an agreement under section 2 of this chapter (or
30 IC 31-6-11-13.5(b) before its repeal) fails to substantially carry out the
31 terms of the agreement, the ~~local child protection service~~ **department**
32 shall:

- 33 (1) terminate the agreement; and
- 34 (2) ~~forward~~ **enter** the child abuse or neglect report relating to the
- 35 person ~~to the division of family and children for entry~~ into the
- 36 registry under IC 31-33-17.

37 SECTION 66. IC 31-33-13-4 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Before a person
39 enters into a services referral agreement under this chapter, the ~~local~~
40 ~~child protection service~~ **department** shall advise the person, orally and
41 in writing, that the ~~division of family and children~~ **department** shall
42 enter information contained in the child abuse or neglect report that

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gave rise to the service referral agreement into the registry as provided under IC 31-33-17 if the person fails to substantially comply with the terms of the agreement.

SECTION 67. IC 31-33-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~local child protection service~~ **department** shall provide a court with access to information relating to a services referral agreement whenever the court:

- (1) approves a program of informal adjustment; or
- (2) presides over a child in need of services proceeding; involving the same person or family to whom services were recommended under the services referral agreement.

SECTION 68. IC 31-33-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. If the ~~local child protection services~~ **department** determines that the best interests of the child require action in the juvenile or criminal court, the ~~local child protection service~~ **department** shall:

- (1) refer the case to the juvenile court under IC 31-34-7; or
- (2) make a referral to the prosecuting attorney if criminal prosecution is desired.

SECTION 69. IC 31-33-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The ~~local child protection service~~ **department** shall assist the juvenile court or the court having criminal jurisdiction during all stages of the proceedings in accordance with the purposes of this article.

SECTION 70. IC 31-33-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The ~~division of family and children~~ **department** shall establish and maintain a centralized, computerized child abuse registry for the purpose of organizing and accessing data regarding substantiated reports of child abuse and neglect described under section 2 of this chapter that the ~~division of family and children~~ **department** receives from throughout Indiana under this article.

SECTION 71. IC 31-33-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The ~~division of family and children~~ **department** shall enter a substantiated report into the registry only if at least one (1) of the following applies:

- (1) An arrest of the alleged perpetrator of the child abuse or neglect is made.
- (2) Criminal charges are filed in state or federal court against the alleged perpetrator of the child abuse or neglect.
- (3) A court determines that a child is a child in need of services

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based on a report of child abuse or neglect.

(4) A court approves a program of informal adjustment relating to the child abuse or neglect report under IC 31-34-8.

(5) A person does not substantially comply with the terms of a services referral agreement under IC 31-33-13.

SECTION 72. IC 31-33-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The ~~division of family and children~~ **department** may not enter an unsubstantiated report into the registry.

SECTION 73. IC 31-33-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The ~~division of family and children~~ **department** shall store data regarding the child abuse or neglect reports in a manner so that the data is accessible under the following if known:

- (1) The child's name.
- (2) The child's date of birth.
- (3) The alleged perpetrator's name.
- (4) The child's mother's name.
- (5) The child's father's name.
- (6) The name of a sibling of the child.
- (7) The name of the child's guardian or custodian if applicable.

SECTION 74. IC 31-33-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~division of family and children~~ **department** shall adopt rules under IC 4-22-2 for the purpose of ensuring that the confidentiality and access to reports of child abuse or neglect are maintained as provided in this chapter.

SECTION 75. IC 31-33-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. Upon request, a person or an organization may have access to information contained in the registry as follows:

- (1) A law enforcement agency or ~~local child protective service~~ **the department** may have access to a substantiated report.
- (2) A person may have access to information consisting of an identifiable notation of a conviction arising out of a report of child abuse or neglect.
- (3) Upon submitting written verification of an application for employment or a consent for release of information signed by a child care provider, a person or an agency may obtain the following information contained in the child abuse registry regarding an individual who has applied for employment or volunteered for services in a capacity that would place the individual in a position of trust with children less than eighteen

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(18) years of age or regarding a child care provider who is providing or may provide child care for the person's child:

(A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the applicant, volunteer, or child care provider as the alleged perpetrator.

(B) Whether criminal charges were filed against the applicant, volunteer, or child care provider based on a report of child abuse or neglect naming the applicant, volunteer, or child care provider as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the applicant, volunteer, or child care provider based on a report of child abuse or neglect in which the applicant, volunteer, or child care provider is named as the alleged perpetrator.

(4) A person may have access to whatever information is contained in the registry pertaining to the person, with protection for the identity of:

(A) the person who reports the alleged child abuse or neglect; and

(B) any other appropriate person.

(5) A person or an agency to whom child abuse and neglect reports are available under IC 31-33-18 may also have access to information contained in the registry.

(6) If a child care provider provides child care in the provider's home, upon submitting a consent for release of information signed by an individual who is at least eighteen (18) years of age, who resides with the child care provider, and who may have direct contact with children for whom the provider provides child care, a person may obtain the following information contained in the child abuse registry regarding the individual:

(A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(B) Whether criminal charges were filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

(7) The ~~division of family and children~~ **department** may use the following information contained in the registry regarding an individual described in IC 12-17.2-3.5-4.1(a) for purposes of

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determining the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3):

(A) Whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(B) Whether criminal charges have been filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

The ~~division of family and children~~ **department** may not disclose information used in connection with the ~~division's~~ **department's** activities under this subdivision.

SECTION 76. IC 31-33-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The ~~division of family and children~~ **department** shall administer the registry and ~~each local child protection service shall administer~~ the automated child protection system under IC 31-33-20 in a manner that enables the ~~division of family and children or each local child protection service~~ **department** to do the following:

(1) Immediately identify and locate prior reports of child abuse or neglect through the use of the ~~division of family and children's~~ **department's**:

(A) computerized tracking system; and

~~the local child protection service's~~ (B) automated risk assessment system.

(2) Track steps in the investigative process to ensure compliance with all requirements for a report of child abuse and neglect.

(3) Maintain and produce aggregate statistical reports monitoring patterns of child abuse and neglect that the ~~division of family and children~~ **department** shall make available to the public upon request.

(4) Serve as a resource for the evaluation, management, and planning of preventative and remedial services to children who have been subject to child abuse or neglect.

SECTION 77. IC 31-33-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section does not apply to substantiated cases if a court determines that a child is a child in need of services based on a report of child abuse or neglect that names the alleged perpetrator as the individual who committed the alleged child abuse or neglect.

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(b) Not later than thirty (30) days after the ~~division of family and children department~~ enters a substantiated child abuse or neglect report into the registry, the ~~division of family and children department~~ shall notify:

(1) the parent, guardian, or custodian of the child who is named in the report as the victim of the child abuse or neglect; and

(2) the alleged perpetrator, if other than the child's parent, guardian, or custodian, named in the report under IC 31-33-5-4; that the ~~division of family and children department~~ has entered the report into the registry.

(c) The ~~division of family and children department~~ shall state the following in a notice to an alleged perpetrator of a substantiated report under subsection (b):

(1) The report has been classified as substantiated.

(2) The alleged perpetrator may request that a substantiated report be amended or expunged at an administrative hearing if the alleged perpetrator does not agree with the classification of the report unless a court is in the process of making a determination described in IC 31-33-19.

(3) The alleged perpetrator's request for an administrative hearing to contest the classification of a substantiated report must be received by the ~~division of family and children department~~ not more than thirty (30) days after the alleged perpetrator receives the notice.

(d) If the alleged perpetrator fails to request an administrative hearing within the time specified in subsection (c)(3), the alleged perpetrator named in a substantiated report may request an administrative hearing to contest the classification of the report if the alleged perpetrator demonstrates that the failure to request an administrative hearing was due to excusable neglect or fraud. The Indiana Rules of Civil Procedure provide the standard for excusable neglect or fraud.

SECTION 78. IC 31-33-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) Whenever a court grants a name change under IC 34-28-2 (or IC 34-4-6 before its repeal) to a person:

(1) against whom an allegation of child abuse or neglect has been substantiated; and

(2) whose name is maintained within the registry in accordance with this chapter;

the person must notify the ~~division of family and children department~~ regarding the name change not more than ten (10) business days after

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the court enters a decree changing the person's name.

(b) The notice must include a copy of the decree of the court that changes the name of the person, certified under the seal of the clerk of court.

SECTION 79. IC 31-33-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in section 1.5 of this chapter, the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its repeal).

(2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:

(A) the division of family and children;

(B) the county office of family and children; or

(C) the ~~local child protection service~~ **department**.

(b) Except as provided in section 1.5 of this chapter, all records held by:

(1) the division of family and children;

(2) a county office of family and children;

~~(3) a local child protection service;~~

(3) the department;

(4) a local child fatality review team established under IC 12-13-15; or

(5) the statewide child fatality review committee established under IC 12-13-15.1-6;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

SECTION 80. IC 31-33-18-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) This section applies to records held by:

(1) the division of family and children;

(2) a county office of family and children;

~~(3) a local child protection service;~~

(3) the department;

(4) a local child fatality review team established under IC 12-13-15; or

(5) the statewide child fatality review committee established under IC 12-13-15.1-6;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect.

(b) As used in this section, "identifying information" means information that identifies an individual, including an individual's:

(1) name, address, date of birth, occupation, place of employment,

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1 employer identification number, mother's maiden name, Social
 2 Security number, or any identification number issued by a
 3 governmental entity;

4 (2) unique biometric data, including the individual's fingerprint,
 5 voice print, or retina or iris image;

6 (3) unique electronic identification number, address, or routing
 7 code;

8 (4) telecommunication identifying information; or

9 (5) telecommunication access device, including a card, a plate, a
 10 code, a telephone number, an account number, a personal
 11 identification number, an electronic serial number, a mobile
 12 identification number, or another telecommunications service or
 13 device or means of account access.

14 (c) Unless information in a record is otherwise confidential under
 15 state or federal law, a record described in subsection (a) that has been
 16 redacted in accordance with this section is not confidential and may be
 17 disclosed to any person who requests the record. The person requesting
 18 the record may be required to pay the reasonable expenses of copying
 19 the record.

20 (d) When a person requests a record described in subsection (a), the
 21 entity having control of the record shall immediately transmit a copy of
 22 the record to the court exercising juvenile jurisdiction in the county in
 23 which the death of the child occurred. However, if the court requests
 24 that the entity having control of a record transmit the original record,
 25 the entity shall transmit the original record.

26 (e) Upon receipt of the record described in subsection (a), the court
 27 shall, within thirty (30) days, redact the record to exclude identifying
 28 information of a person or other information not relevant to
 29 establishing the facts and circumstances leading to the death of the
 30 child. However, the court shall not redact the record to exclude
 31 information that relates to an employee of the division of family and
 32 children, an employee of a county office of family and children, or an
 33 employee of a local child protection service: **the department.**

34 (f) The court shall disclose the record redacted in accordance with
 35 subsection (e) to any person who requests the record, if the person has
 36 paid:

37 (1) to the entity having control of the record, the reasonable
 38 expenses of copying under IC 5-14-3-8; and

39 (2) to the court, the reasonable expenses of copying the record.

40 (g) The court's determination under subsection (e) that certain
 41 identifying information or other information is not relevant to
 42 establishing the facts and circumstances leading to the death of a child

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is not admissible in a criminal proceeding or civil action.

SECTION 81. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody;

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in

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accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for ~~the child protective service~~ **protection services** or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 12-13-15-6.

(17) The statewide child fatality review committee established by IC 12-13-15.1-6.

(18) The department.

SECTION 82. IC 31-33-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Section 2 of this

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chapter does not prevent the county office of family and children or the ~~local child protection service~~ **department** from disclosing to a qualified individual engaged in a good faith research project either:

(1) information of a general nature, including the incidents of reported child abuse or neglect or other statistical or social data used in connection with studies, reports, or surveys, and information related to their function and activities; or

(2) information relating to case histories of child abuse or neglect if:

(A) the information disclosed does not identify or reasonably tend to identify the persons involved; and

(B) the information is not a subject of pending litigation.

(b) To implement this section, the ~~division of family and children~~ **department** shall adopt under IC 4-22-2 rules to govern the dissemination of information to qualifying researchers.

SECTION 83. IC 31-33-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Whenever a child abuse or neglect investigation is conducted under this article, the ~~local child protection service~~ **department** shall give verbal and written notice to each parent, guardian, or custodian of the child that:

(1) the reports and information described under section 1 of this chapter relating to the child abuse or neglect investigation; and

(2) if the child abuse or neglect allegations are pursued in juvenile court, the juvenile court's records described under IC 31-39;

are available upon the request of the parent, guardian, or custodian except as prohibited by federal law.

(b) A parent, guardian, or custodian requesting information under this section may be required to sign a written release form that delineates the information that is requested before the information is made available. However, no other prerequisites for obtaining the information may be placed on the parent, guardian, or custodian except for reasonable copying costs.

SECTION 84. IC 31-33-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Except as provided in sections 6 and 7 of this chapter, the ~~division of family and children~~ **department** shall conduct an administrative hearing under IC 4-21.5-3 upon a request made under IC 31-33-17-8.

SECTION 85. IC 31-33-19-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. If the classifying agency fails to carry the burden of proof under section 2 of this chapter, the ~~division of family and children~~ **department** shall amend or expunge the report as ordered by the administrative hearing officer

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within the period provided under section 8 of this chapter.

SECTION 86. IC 31-33-19-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The ~~division of family and children~~ **department** shall expunge identifying information in a substantiated report contained within the registry as follows:

(1) Not later than ten (10) working days after any of the following occurs:

(A) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

(B) An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

(C) A court having criminal jurisdiction over a case involving child abuse or neglect in which criminal charges are filed and the court:

(i) dismisses the charges; or

(ii) enters a not guilty verdict.

(2) Not later than ten (10) working days after the period of informal adjustment ceases under IC 31-34-8.

(3) Not later than six (6) months after the date that the ~~division of family and children~~ **department** enters the report into the registry as the result of a person's failure to successfully participate in a services referral agreement under IC 31-33-13.

(4) Not later than twenty (20) years after a court determines that a child is a child in need of services based upon the report.

(b) However, if subsection (a)(1) through (a)(4) does not apply, the ~~division of family and children~~ **department** shall expunge the report not later than when the child who is named as the victim of child abuse or neglect reaches twenty-four (24) years of age.

SECTION 87. IC 31-33-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The ~~division of family and children~~ **department** shall immediately amend or expunge from the registry a substantiated report containing an inaccuracy arising from an administrative or a clerical error.

SECTION 88. IC 31-33-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~Each local child protection service~~ **The department** shall establish and maintain an automated child protection system.

SECTION 89. IC 31-33-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The system consists of the following components:

(1) One (1) computer to be purchased for every two (2) child

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welfare caseworkers.

(2) Automated risk assessment in which a child welfare worker or supervisor is able to review a substantiated child abuse and neglect case to determine prior case history during the intake, investigation, assessment, and case management processes.

(3) The capability to allow supervisors to monitor child abuse and neglect cases and reports relating to the cases.

(4) The automated production of standard reports to enable the automated compilation of information gathered on forms used by child welfare workers to report the information and results of child abuse and neglect cases. The system must also provide for the automation of other data for planning and evaluation as determined by the ~~division of family and children~~ **department**.

(5) The capability of same day notification and transfer of statistical information to the ~~division of family and children~~ **department** regarding new and closed child abuse and neglect cases.

(6) The enabling of child welfare supervisors to review a child abuse or neglect case at any point after the case is initially determined to be substantiated abuse or neglect to confirm the status of the case and allow for the consolidated management of cases.

(7) The capability for adjustment to the system's programming at a later date if additional reporting requirements occur at a later date.

(8) A word processing capability to allow case notes to be recorded with each substantiated child abuse and neglect case.

SECTION 90. IC 31-33-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) In addition to the components under section 2 of this chapter, the system must have the capability to maintain a case history file.

(b) Whenever a child abuse or neglect case is substantiated as provided under IC 31-33-17-2, the system must have the capability to transmit the information regarding the case to the ~~division of family and children~~ **department**.

(c) Whenever a person enters a new child abuse or neglect report into the system, the system must have the capability to automatically search:

~~(A)~~ (1) within the county; and

~~(B)~~ (2) within the child abuse and neglect registry maintained by the ~~division of family and children~~ **department** under IC 31-33-17;

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for reports that match the name of the perpetrator, victim, or person who is legally responsible for the victim's welfare with the persons named in the new report as described in this chapter.

(d) If the system identifies a previous, substantiated report, the system must have the capability to transfer the report to the county where the new report originated not later than twenty-four (24) hours after receipt of the new report. If the previous, matching report is located, a case history extract must be made available to the assigned caseworker.

SECTION 91. IC 31-33-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. At least ten (10) levels of security for confidentiality in the system must be maintained. The system must have a comprehensive system of limited access to information as follows:

(1) The system must be accessed only by the entry of an operator identification number and a person's secret password.

(2) Child welfare caseworkers and investigators must be allowed to access only cases that are assigned to the caseworker or investigator.

(3) Child welfare supervisors may access only the following:

(A) Cases assigned to the supervisor.

(B) Cases assigned to a caseworker or an investigator who reports to the supervisor.

(C) Cases that are unassigned.

(4) To preserve confidentiality in the workplace, case welfare managers, as designated by the ~~division of family and children~~ **department**, may access any case, except restricted cases involving a state employee or the immediate family member of a state employee who has access to the system. Access to restricted information under this subdivision may be obtained only if an additional level of security is implemented.

(5) Access to records of authorized users, including passwords, is restricted to:

(A) users designated by the ~~division of family and children~~ **department** as an administrator; and

(B) the administrator's level of administration as determined by the ~~division of family and children~~ **department**.

(6) Ancillary programs that may be designed for the system may not be executed in a manner that would circumvent the system's log on security measures.

(7) Certain system functions must be accessible only to system operators with specified levels of authorization as determined by

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1 the ~~division of family and children~~ department.

2 (8) Files containing passwords must be encrypted.

3 (9) There must be two (2) additional levels of security for
4 confidentiality as determined by the ~~division of family and~~
5 ~~children~~ department.

6 SECTION 92. IC 31-33-22-3 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person who
8 intentionally communicates to:

9 (1) a law enforcement agency; or

10 ~~(2) a local child protection service;~~

11 **(2) the department;**

12 a report of child abuse or neglect knowing the report to be false
13 commits a Class A misdemeanor. However, the offense is a Class D
14 felony if the person has a previous unrelated conviction for making a
15 report of child abuse or neglect knowing the report to be false.

16 (b) A person who intentionally communicates to:

17 (1) a law enforcement agency; or

18 ~~(2) a local child protection service;~~

19 **(2) the department;**

20 a report of child abuse or neglect knowing the report to be false is
21 liable to the person accused of child abuse or neglect for actual
22 damages. The finder of fact may award punitive damages and attorney's
23 fees in an amount determined by the finder of fact against the person.

24 (c) The director ~~of the county office of family and children~~ or the
25 **director's designee** shall, after review by the ~~county office's~~
26 **department's** attorney, notify the prosecuting attorney whenever the
27 director and the ~~county office's~~ **department's** attorney have reason to
28 believe that a person has violated this section.

29 (d) A person who:

30 (1) has reason to believe that the person is a victim of a false
31 report of child abuse or neglect under this section; and

32 (2) is not named in a pending criminal charge or under
33 investigation relating to the report;

34 may file a complaint with the prosecuting attorney. The prosecuting
35 attorney shall review the relevant child abuse or neglect records of the
36 ~~county office of family and children~~ **department** and any other
37 relevant evidence.

38 SECTION 93. IC 31-33-22-5 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A person who is
40 accused of committing child abuse or neglect is entitled to access to a
41 report relevant to an alleged false accusation filed under this article if
42 a court finds that the report:

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- (1) is unsubstantiated; and
 (2) was intentionally communicated to a law enforcement agency or ~~a local child protection service~~ **the department** by a person who knew the report was false.

SECTION 94. IC 31-34-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A person taking a child into custody under section 3 of this chapter shall make written documentation evidencing the following:

- (1) The facts establishing probable cause to believe that the child is a child in need of services.
 (2) Why the child's physical or mental condition will be seriously impaired or seriously endangered if the child is not immediately taken into custody.
 (3) Why the person is unable to obtain a court order and what steps have been taken to obtain a court order.
 (4) Why the ~~local child protection service~~ **department of child services** is unable to protect the safety of the child without taking the child into custody.
 (5) Why the person is unable to obtain the assistance of a law enforcement officer if the child is taken into custody by a probation officer or caseworker without the assistance of a law enforcement officer.

(b) The ~~division~~ **department of child services** shall create forms to be used for documentation under this section.

(c) The person taking the child into custody shall immediately forward a copy of the documentation to the ~~local department of child protection service~~ **services** to be included in the report required by IC 31-33-7-4.

SECTION 95. IC 31-34-2.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Immediately after an emergency medical services provider takes custody of a child under section 1 of this chapter, the provider shall notify the ~~local department of child protection service~~ **services** that the provider has taken custody of the child.

- (b) The ~~local department of child protection service~~ **services** shall:
 (1) assume the care, control, and custody of the child immediately after receiving notice under subsection (a); and
 (2) not later than forty-eight (48) hours after the ~~local department of child protection service~~ **services** has taken custody of the child, contact the Indiana clearinghouse for information on missing children established by IC 10-13-5-5 to determine if the child has been reported missing.

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1 SECTION 96. IC 31-34-2.5-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A child for whom the
 3 ~~local department of child protection service services~~ assumes care,
 4 control, and custody under section 2 of this chapter shall be treated as
 5 a child taken into custody without a court order, except that efforts to
 6 locate the child's parents or reunify the child's family are not necessary,
 7 if the court makes a finding to that effect under IC 31-34-21-5.6(b)(5).

8 SECTION 97. IC 31-34-2.5-4 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Whenever a child is
 10 taken into custody without a court order under this chapter, the attorney
 11 for the ~~county office of family and children~~ **department of child**
 12 **services** shall, without unnecessary delay, request the juvenile court to:

- 13 (1) authorize the filing of a petition alleging that the child is a
- 14 child in need of services;
- 15 (2) hold an initial hearing under IC 31-34-10 not later than the
- 16 next business day after the child is taken into custody; and
- 17 (3) appoint a guardian ad litem for the child.

18 SECTION 98. IC 31-34-3-1 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. If a child is taken
 20 into custody under IC 31-34-2, the ~~local department of child~~
 21 ~~protection service services~~ shall notify the child's custodial parent,
 22 guardian, or custodian not more than two (2) hours after the child has
 23 been taken into custody that the child has been taken into custody as
 24 the result of alleged child abuse or neglect.

25 SECTION 99. IC 31-34-3-2 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Subject to section 3
 27 of this chapter, if after making a reasonable effort the child's custodial
 28 parent, guardian, or custodian cannot be located, the **department of**
 29 ~~child protection service services~~ shall make a good faith effort, not
 30 more than six (6) hours after the child has been taken into custody, to
 31 leave written notice at the last known address of the child's custodial
 32 parent, guardian, or custodian that the child has been taken into
 33 custody.

34 SECTION 100. IC 31-34-3-3 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. If the custodial
 36 parent, guardian, or custodian is believed to reside outside of Indiana,
 37 the ~~local department of child protection service services~~ shall send
 38 written notice by certified mail to the last known address of the
 39 noncustodial parent, guardian, or custodian on the same date that the
 40 child is taken into custody. However, if the child is not taken into
 41 custody on a business day, the **department of child** ~~protection service~~
 42 **services** shall send notice by certified mail on the next business day

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after the child is taken into custody.

SECTION 101. IC 31-34-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~local~~ **department of child protection service services** must have as the ~~service's department's~~ first priority the immediate needs of the child for medical care, shelter, food, or other crisis services.

SECTION 102. IC 31-34-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The advisement required by this section applies only to a person who:

- (1) is named as being responsible for child abuse or neglect as the result of a substantiated report; and
- (2) agrees to participate in a program of informal adjustment under this chapter.

(b) Before the person signs an agreement to participate in a program of informal adjustment, the ~~local~~ **department of child protection service services** shall advise the person, orally and in writing, of the extent to which information contained in the substantiated report must be entered into the child abuse registry under IC 31-33-17 if the court approves the informal adjustment under section 1 of this chapter.

SECTION 103. IC 31-34-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. Whenever the court approves a program of informal adjustment arising out of a child abuse or neglect report, the ~~local~~ **department of child protection service services** shall transmit the report to the child abuse registry within five (5) working days as required by IC 31-33-8-13.

SECTION 104. IC 31-34-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Not later than five (5) months after a court approves a program of informal adjustment under this chapter, the ~~local~~ **department of child protection service services** shall file with the court a report indicating the extent of compliance with the program.

(b) If the court extends the period of the informal adjustment under section 6 of this chapter, the ~~local~~ **department of child protection service services** shall file a supplemental report not later than eleven (11) months after the court initially approves the program of informal adjustment updating the court on the status of a person's compliance with the program.

SECTION 105. IC 31-34-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The:

- (1) juvenile court, in implementing a program of informal adjustment for a child under IC 31-34-8; and
- (2) ~~local~~ **department of child protection service; services**, in

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proposing a voluntary services referral agreement for the benefit of a child under IC 31-33-13; shall consider and use to the extent feasible any available services described in an early intervention plan approved under this chapter.

SECTION 106. IC 31-37-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The:

(1) juvenile court, in implementing a program of informal adjustment for a child under IC 31-34-8; and

(2) ~~local department of child protection service~~, **services**, in proposing a voluntary services referral agreement for the benefit of a child under IC 31-33-13;

shall consider and use to the extent feasible any available services described in an early intervention plan approved under this chapter.

SECTION 107. IC 31-39-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Child abuse or neglect information may be expunged under this chapter if the probative value of the information is so doubtful as to outweigh the information's validity.

(b) Child abuse or neglect information shall be expunged if the information is determined to be unsubstantiated after:

(1) an investigation of a report of a child who may be a victim of child abuse or neglect by the **department of child protection service**; ~~service~~; **services**; or

(2) a court proceeding.

SECTION 108. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 12-17-2-4; IC 12-17-2-5; IC 12-17-2-16; IC 31-33-2-1; IC 31-33-2-7.

SECTION 109. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "division" refers to the division of family and children established by IC 12-13-1-1.**

(b) **The division shall take any steps necessary to transfer, beginning July 1, 2005, the designated state agency charged with the administration of Title IV-D of the federal Social Security Act from the child support bureau established by IC 12-17-2-5 to the department of child services established by IC 31-33-1.5-2, as added by this act.**

(c) **If the federal government has not approved the transfer of designation described in this SECTION by July 1, 2005, the department of child services shall enforce Title IV-D under the designation of the child support bureau established by IC 12-17-2-5.**

(d) **This SECTION expires December 31, 2006.**



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1 SECTION 110. [EFFECTIVE JULY 1, 2005] (a) As used in this
 2 SECTION, "department" refers to the department of child
 3 services established by IC 31-33-1.5-2, as added by this act.

4 (b) On July 1, 2005, the following occur:

5 (1) The powers, duties, and functions of:

6 (A) the local, joint county, or multiple county child
 7 protection services established by IC 31-33-2-1 (before its
 8 repeal) or IC 31-33-2-7 (before its repeal);

9 (B) the child support bureau created by IC 12-17-2-5
 10 (before its repeal); and

11 (C) the division of family and children established by
 12 IC 12-13-1-1 or a county office of family and children
 13 concerning:

14 (i) foster care;

15 (ii) independent living (as described in 42 U.S.C. 670 et
 16 seq.); and

17 (iii) adoption;

18 are transferred to the department.

19 (2) A reference in the Indiana Code or a rule to:

20 (A) child protection services or local, joint county, or
 21 multiple county child protection service;

22 (B) the child support bureau or the state's Title IV-D
 23 agency; and

24 (C) the division of family and children concerning the
 25 provision of:

26 (i) foster care;

27 (ii) independent living; and

28 (iii) adoption;

29 services;

30 shall be construed as a reference to the department.

31 (3) The property and records of:

32 (A) the child protection services and local, joint county,
 33 and multiple county child protection services;

34 (B) the child support bureau; and

35 (C) the division of family and children concerning:

36 (i) foster care;

37 (ii) independent living; and

38 (iii) adoption;

39 services;

40 are transferred to the department.

41 (4) Any appropriations made to the office of the secretary of
 42 family and social services to administer:

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- (A) child protection services;
 - (B) the child support bureau or Title IV-D;
 - (C) foster care services;
 - (D) independent living services; and
 - (E) adoption services;
- are transferred to the department.

(5) An individual who was an employee of:

- (A) a local, joint county, or multiple county child protection services;
- (B) the child support bureau; and
- (C) the division of family and children or a local county office of family and children concerning:

- (i) foster care;
- (ii) independent living; or
- (iii) adoption;

services;

becomes an employee of the department. The employee is entitled to have the employee's service before July 1, 2005, recognized for the purposes of computing retention points under IC 4-15-2-32 if a layoff occurs and all other applicable employee benefits.

(c) This SECTION expires December 31, 2006.

SECTION 111. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "department" refers to the department of child services established by IC 31-33-1.5-2, as added by this act.

(b) Rules adopted before July 1, 2005, by the office of the secretary of family and social services concerning:

- (1) child protection services;
- (2) Title IV-D or the child support bureau;
- (3) foster care services;
- (4) independent living services; and
- (5) adoption services;

are considered after June 30, 2005, rules of the department.

(c) The department shall amend references in rules to indicate that the department and not the office of the secretary of family and social services is the entity that administers:

- (1) child protection services;
- (2) Title IV-D;
- (3) foster care services;
- (4) independent living services; and
- (5) adoption services.

(d) This SECTION expires December 31, 2006.

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1 SECTION 112. [EFFECTIVE JULY 1, 2005] (a) The legislative
2 services agency shall prepare legislation for introduction in the
3 2006 regular session of the general assembly to make appropriate
4 changes in statutes that are required by this act.

5 (b) This SECTION expires December 31, 2007.

6 SECTION 113. [EFFECTIVE JULY 1, 2005] (a) On July 1, 2005,
7 the following occur:

8 (1) The division of family and children established by
9 IC 12-13-1-1 becomes the division of family resources.

10 (2) The powers, duties, and functions of the division of family
11 and children are transferred to the division of family
12 resources.

13 (3) A reference in the Indiana Code or the Indiana
14 Administrative Code to the division of family and children
15 shall be construed as a reference to the division of family
16 resources.

17 (4) The property and records of the division of family and
18 children are transferred to the division of family resources.

19 (5) Any appropriations made to the division of family and
20 children are transferred to the division of family resources.

21 (6) An individual who is an employee of the division of family
22 and children becomes an employee of the division of family
23 resources. The employee is entitled to have the employee's
24 service before July 1, 2005, recognized for the purposes of
25 computing retention points under IC 4-15-2-32 if a layoff
26 occurs and all other applicable employee benefits.

27 (7) Rules adopted by the division of family and children
28 before July 1, 2005, are considered after June 30, 2005, to be
29 rules of the division of family resources.

30 (8) The division of family resources shall amend references to
31 the division of family and children in rules adopted by the
32 division of family and children before July 1, 2005, to reflect
33 the change described in subdivision (1).

34 (b) The legislative services agency shall prepare legislation for
35 introduction in the 2006 regular session of the general assembly to
36 make appropriate changes in statutes that are required as a result
37 of the occurrences described in this SECTION.

38 (c) This SECTION expires December 31, 2009.

39 SECTION 114. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 529, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, delete lines 23 through 28, begin a new paragraph and insert:

"SECTION 12. IC 31-9-2-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 40. "Director", for purposes of IC 31-33, IC 31-34, and IC 31-37, refers to the director of the ~~division of family and children~~ **department of child services**.

SECTION 13. IC 31-16-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) In a proceeding under IC 31-14 or IC 31-16-2 through IC 31-16-12 to establish, modify, or enforce a child support order, the court shall:

- (1) enter an order for immediate income withholding; and
- (2) modify any previously issued income withholding order that has not been activated under this chapter to provide for immediate income withholding.

(b) The court shall issue the income withholding order to the income payor not later than fifteen (15) calendar days after the court's determination.

(c) The income withholding order must order income payors to send to the ~~clerk of the court~~ **state central collection unit** or other person specified in the support order under:

- (1) IC 31-14-11-11;
- (2) IC 31-16-4; or
- (3) IC 31-16-9;

the amount of income established by the court for child support at the time the order for child support is established, enforced, or modified.

(d) However, the court shall issue an income withholding order that will not become activated except upon the occurrence of the two (2) conditions described in section 2 of this chapter if:

- (1) the parties submit a written agreement providing for an alternative child support arrangement; or
- (2) the court determines that good cause exists not to require immediate income withholding.

(e) A finding of good cause under subsection (d)(2) must:

- (1) be written; and
- (2) include:
 - (A) all reasons why immediate income withholding is not in

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the best interests of the child; and

(B) if the case involves a modification of support, a statement that past support has been timely paid.

(f) The income withholding order must contain a statement that if the withholding order is activated, income payors will be ordered to send to the ~~clerk of the court~~ **state central collection unit** or other person specified in the support order under:

- (1) IC 31-14-11-11;
- (2) IC 31-16-4; or
- (3) IC 31-16-9;

the amount of income established by the court for child support.

SECTION 14. IC 31-16-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to the implementation of income withholding under an order issued under sections 1 and 3 of this chapter.

(b) If the Title IV-D agency or the court becomes aware that the obligor has an income payor to whom a notice has not been sent under subsection (c) or an income payor to whom notice of delinquent support has not been sent under subsection (c):

- (1) the Title IV-D agency in a case arising under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669); or
- (2) the court;

shall not later than fifteen (15) calendar days after becoming aware of an income payor send a written notice to the income payor that the withholding is binding on the income payor.

(c) The notice to an income payor under this section must contain a statement of the following:

- (1) That the income payor is required to withhold a certain amount of income from the obligor.
- (2) That the total amount to be withheld under court order by the obligor's income payor from the obligor's income is the sum of:
 - (A) the obligor's current child support obligation;
 - (B) an amount to be applied toward the liquidation of any arrearages; and
 - (C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court~~ **state central collection unit** or other person specified in the notice; up to the maximum amount permitted under 15 U.S.C. 1673(b).
- (3) That the income payor shall:
 - (A) forward the withheld income described in subdivision (2)(A) and (2)(B) to the ~~clerk of the court~~ **state central**

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collection unit or other person named in the notice at the same time that the obligor is paid; and

(B) include a statement identifying:

- (i) each cause number;
- (ii) the name of each obligor; and
- (iii) the name of each payee with the withheld income forwarded by the income payor.

(4) That withholding is binding upon the income payor until further notice from a Title IV-D agency.

(5) That the obligor may recover from the income payor in a civil action an amount not less than one hundred dollars (\$100) if the income payor:

- (A) discharges the obligor from employment;
- (B) refuses the obligor employment; or
- (C) disciplines the obligor;

solely because the income payor is required to forward income under this chapter.

(6) That the income payor is liable for any amount that the income payor fails to forward under this chapter.

(7) That withholding under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes.

(8) That, if the income payor is required to withhold income from more than one (1) obligor, the income payor may:

- (A) combine in a single payment the withheld amounts for all obligors who have been ordered to pay the ~~same clerk state~~ **central collection unit** or other governmental agency; and
- (B) separately identify the part of the single payment that is attributable to each individual obligor.

(9) That if:

- (A) there is more than one (1) order for withholding against a single obligor; and
- (B) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

the income payor shall distribute the withheld earnings pro rata among the entities entitled to receive earnings under the orders, giving priority to a current support withholding order. The income payor shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

(10) That the income payor shall implement withholding not later than the first pay date after fourteen (14) days following the date

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the notice was received.

(11) That the income payor shall:

(A) notify:

(i) the Title IV-D agency if the Title IV-D agency gives the notice under this section; or

(ii) the court if the court gives the notice under this section; when the obligor ceases employment or no longer receives income not later than ten (10) days after the employment or income ceases; and

(B) provide:

(i) the obligor's last known address; and

(ii) the name and address of the obligor's new income payor, if known.

SECTION 15. IC 31-16-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Whenever an income withholding order is to be:

- (1) activated in a case arising under section 5 of this chapter; or
- (2) implemented by a Title IV-D agency under section 3 of this chapter despite the absence of a withholding order in the support order;

the Title IV-D agency shall send a written notice to the obligor.

(b) The notice required under subsection (a) must contain a statement of the following:

- (1) Whether the obligor is delinquent in the payment of child support.
- (2) The amount of child support, if any, that the obligor is in arrears.
- (3) That a certain amount of income is to be:
 - (A) withheld under court order or action by the Title IV-D agency from the obligor's income; and
 - (B) forwarded to the ~~clerk of the court~~ **state central collection unit or other person named in the notice.**
- (4) That the total amount to be withheld under court order or action by the Title IV-D agency by the obligor's income payor from the obligor's income is the sum of:
 - (A) the obligor's current monthly child support obligation;
 - (B) an amount to be applied toward the liquidation of any arrearages; and
 - (C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the clerk of the court or other person specified in the notice to the income payor under

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this chapter;

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(5) That the provision for withholding applies to the receipt of any current or subsequent income.

(6) That the only basis for contesting activation of income withholding is a mistake of fact.

(7) That an obligor may contest the Title IV-D agency's determination to activate income withholding by making written application to the Title IV-D agency not later than twenty (20) days after the date the notice is mailed.

(8) That if the obligor contests the Title IV-D agency's determination to activate the income withholding order, the Title IV-D agency shall schedule an administrative hearing.

(9) That if the obligor does not contest the Title IV-D agency's determination to activate the income withholding order, the Title IV-D agency will activate income withholding.

(10) That income withholding will continue until a court or the Title IV-D agency terminates activation of income withholding.

SECTION 16. IC 31-16-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If a petition to activate an income withholding order is filed under section 6(2) or 6(3) of this chapter, the court shall set a date for a hearing on the petition that is not later than twenty (20) days after the date the petition is filed. The court shall send a summons and a written notice to the obligor. The notice must contain a statement of the following:

(1) Whether the obligor is delinquent in the payment of child support.

(2) The amount of child support, if any, that the obligor is in arrears.

(3) That a certain amount for the payment of current and past due child support is to be withheld each month from the obligor's income and forwarded to the ~~clerk of the court~~ **state central collection unit or other person named in the notice.**

(4) That the total amount to be withheld each month by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court~~ **state central collection unit or other person named in the notice;**

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up to the maximum amount permitted under 15 U.S.C. 1673(b).

(5) That the provision for withholding applies to receipt of any current or subsequent income.

(6) That any of the following constitutes a basis for contesting the withholding:

(A) A mistake of fact.

(B) The parties have submitted a written agreement providing for an alternative child support arrangement.

(C) A court determines that good cause exists not to require immediate income withholding.

(7) That income withholding will continue until the activation of the income withholding order is terminated by the court.

(8) That if the obligor does not appear at the hearing, the court will activate the income withholding order.

(b) If:

(1) the obligor does not appear at the hearing on the petition filed under section 6(2) or 6(3) of this chapter; or

(2) the court grants the petition;

the court shall activate the income withholding order by mailing a written notice to the income payor as provided in section 10 of this chapter.

SECTION 17. IC 31-16-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) To activate or implement an income withholding order, in addition to the notice requirements imposed by sections 7 and 8 of this chapter:

(1) the Title IV-D agency in a case arising under section 3 or 5 of this chapter; or

(2) the court in a case arising under section 6 of this chapter;

shall mail a written notice to each income payor not later than fifteen (15) calendar days after the issuance of the income withholding order.

(b) The notice to each income payor must contain a statement of the following:

(1) That the income payor is required to withhold a certain amount of income from the obligor.

(2) That the total amount to be withheld each month by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court~~; state

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central collection unit or other person named in the notice;
up to the maximum amount permitted under 15 U.S.C. 1673(b).

(3) That the income payor shall:

(A) forward the withheld income described in subdivision (2)(A) and (2)(B) to the ~~clerk of the court~~ or the state central collection unit **or other person** named in the notice at the same time that the obligor is paid; and

(B) include a statement identifying:

- (i) each cause number;
- (ii) the Indiana support enforcement tracking system (SETS) case number;
- (iii) the name of each obligor; ~~and~~
- (iv) the name of each payee with the withheld income forwarded by the income payor; **and**

(v) the obligor's Social Security number.

(4) That withholding is binding upon the income payor until further notice.

(5) That the obligor may recover from the income payor in a civil action an amount not less than one hundred dollars (\$100) if the income payor:

- (A) discharges the obligor from employment;
- (B) refuses the obligor employment; or
- (C) disciplines the obligor;

because the income payor is required to forward income under this chapter.

(6) That the income payor is liable for any amount that the income payor fails to forward under this chapter.

(7) That withholding under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes.

(8) That, if the income payor is required to withhold income from more than one (1) obligor, the income payor may:

- (A) combine in a single payment the withheld amounts for all obligors who have been ordered to pay the ~~same clerk state~~ **central collection unit** or other governmental agency; and
- (B) separately identify the part of the single payment that is attributable to each individual obligor.

(9) That if:

- (A) there is more than one (1) order for withholding against a single obligor; and
- (B) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

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the income payor shall distribute the withheld earnings pro rata among the entities entitled to receive earnings under the orders, giving priority to a current support withholding order, and shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

(10) That the income payor shall implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(11) That the income payor shall:

(A) notify:

(i) the Title IV-D agency in a case arising under section 5 of this chapter; or

(ii) the court in a case arising under section 1 or 6 of this chapter;

when the obligor terminates employment or ceases to receive other income not later than ten (10) days after termination; and

(B) provide:

(i) the obligor's last known address; and

(ii) the name and address of the obligor's new income payor if known.

SECTION 18. IC 31-16-15-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) An income payor that is required to withhold income under this chapter shall:

(1) forward income withheld for the payment of current and past due child support to the ~~clerk of the court~~, the state central collection unit or other person named in the notice at the same time that the obligor is paid;

(2) include a statement identifying:

(A) each cause number;

(B) the Indiana support enforcement tracking system (ISETS) case number;

(C) the name of each obligor **and the obligor's Social Security number**; and

(D) the name of each payee with the withheld income forwarded by the income payor; and

(3) implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(b) The income payor may retain, in addition to the amount required to be forwarded to the ~~clerk of court~~ **state central collection unit** under subsection (a), a fee of two dollars (\$2) from the obligor's income each time the income payor forwards income to the ~~clerk of the court~~ **state central collection unit** or other person specified in the

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notice to an income payor under this chapter. If the income payor elects to withhold the fee, the amount to be withheld for the payment of current and past due child support must be reduced accordingly if necessary to avoid exceeding the maximum amount permitted to be withheld under 15 U.S.C. 1673(b).

SECTION 19. IC 31-16-15-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Except as provided in subsection (b), if the income payor is required to withhold income from more than one (1) obligor under this chapter, the income payor may:

- (1) combine in a single payment the withheld amounts for all obligors who have been ordered to pay to the ~~same clerk state~~ **central collection unit** or other governmental agency; and
- (2) separately identify the part of the single payment that is attributable to each individual obligor.

(b) If the income payor:

- (1) is required to withhold income from more than one (1) obligor under this chapter; and
- (2) employs more than fifty (50) employees;

the income payor shall make payments to the state central collection unit through electronic funds transfer.

(c) The department of child services shall assess a civil penalty of twenty-five dollars (\$25) per obligor per pay period against an income payor that:

- (1) is required to make a payment through electronic funds transfer under subsection (b); and**
- (2) does not make the payment through electronic funds transfer.**

The department shall deposit the penalties into the state general fund."

Page 42, between lines 31 and 32, begin a new paragraph and insert the following:

"SECTION 113. [EFFECTIVE JULY 1, 2005] (a) On July 1, 2005, the following occur:

- (1) The division of family and children established by IC 12-13-1-1 becomes the division of family resources.**
- (2) The powers, duties, and functions of the division of family and children are transferred to the division of family resources.**
- (3) A reference in the Indiana Code or the Indiana Administrative Code to the division of family and children shall be construed as a reference to the division of family**

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resources.

(4) The property and records of the division of family and children are transferred to the division of family resources.

(5) Any appropriations made to the division of family and children are transferred to the division of family resources.

(6) An individual who is an employee of the division of family and children becomes an employee of the division of family resources. The employee is entitled to have the employee's service before July 1, 2005, recognized for the purposes of computing retention points under IC 4-15-2-32 if a layoff occurs and all other applicable employee benefits.

(7) Rules adopted by the division of family and children before July 1, 2005, are considered after June 30, 2005, to be rules of the division of family resources.

(8) The division of family resources shall amend references to the division of family and children in rules adopted by the division of family and children before July 1, 2005, to reflect the change described in subdivision (1).

(b) The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to make appropriate changes in statutes that are required as a result of the occurrences described in this SECTION.

(c) This SECTION expires December 31, 2009."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 529 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 10, Nays 0.

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